IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 27113 of 2007(C)

PETITIONER:

K.SATHEESH KUMAR, S/O KUMARAN NAIR,
KALATHARA VILAKATH VEEDU, PULLAYIL,
VELIYAMKODE P.O., TRIVANDRUM.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS:

---

1. G.ACHUTHAN PILLAI,
KRISHNA BHAVAN, CHERUTHANA P.O.,
KARUVATTA, ALLEPPEY DIST.

2. KERALA STATE POLICE CID STAFF
CO-OPERATIVE SOCIETY LTD NO.T.322,
TRIVANDRUM, REPRESENTED BY ITS
SECRETARY.

3. THE UNIT INSPECTOR, RETURNING OFFICER
KERALA STATE POLICE CID STAFF CO-OPERATIVE
SOCIETY LTD NO.T.322, TRIVANDRUM.

4. KERALA CO-OPERATIVE TRIBUNAL,
TRIVANDRUM.

5. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES(GENERAL), TRIVANDRUM.

BY GOVT. PLEADER SMT.ANU SIVARAMAN
ADV.SRI.J.S.AJITH KUMAR FOR R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF THE PLAINT IN ARC 1 OF 2004 DTD. 2-1-04
EXT.P2	TRUE COPY OF THE WRITTEN STATEMENT IN ARC 1 OF 2004 DTD. 18-3-04
EXT.P3	TRUE COPY OF THE WITNESS LIST DTD. 6-1-06
EXT.P4	TRUE COPY OF THE AWARD DTD. 9-8-07 IN ARC 1 OF 2004 OF THE CO-OP. ARBITRATION COURT
EXT.P5	TRUE COPY OF THE APPEAL MEMO IN A.P. 28 OF 2007 OF THE CO-OPERATIVE TRIBUNAL DTD. 30-08-07
EXT.P6	TRUE COPY OF THE AFFIDAVIT AND STAY PETITION IN DO.
EXT.P7	TRUE COPY OF THE RESOLUTION NO.255 DTD. 18-8-07
EXT.P8	TRUE COPY OF THE COVERING LETTER DTD. 24-8-07

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

\- -

W.P.(c).No.27113 OF 2007

\- -

Dated this the 17th day of September , 2007

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner is the President of the second respondent-Society. First respondent filed an election petition which is allowed as evident from Ext.P4. Petitioner preferred Ext.P5 appeal. Ext.P6 is the application for stay. According to the petitioner, though the appeal was numbered, first respondent instead of granting interim stay, issued notice to the respondents in the appeal for hearing the appeal itself on 10/09/2007. On 10/09/2007 stay was refused for the reason that grant of interim stay can be considered only after all the respondents in the appeal entered appearance. Appeal is now posted to 29-09-2007. Exts.P7 and P8 are stated to be the resolution and the covering letter respectively which is produced to show that there is a decision taken in the meeting held on 18/08/2007 for conducting election to the Director Board of the second respondent-society on 19-10-2007. It is stated that in the light of the award of the Arbitrator setting aside the election, the Department is taking urgent steps

to appoint an Administrator. It is the case of the petitioner that the delay on the part of the 4th respondent to take decision on the stay petition is causing immense prejudice and hardship.

2. I heard learned counsel for the petitioner, learned counsel for the first respondent and the learned Government Pleader also.

3. Counsel for the petitioner submits that records have been called for and the case is posted to 29/09/2007. Learned counsel for the first respondent submits that there is no case made out for grant of stay. He would invite my attention to the order also to contend that there is no basis to pass any order in favour of the petitioner.

4. It is not in dispute that an appeal is pending. There is no order as such passed on the stay petition by the Tribunal either granting stay or rejecting it. The matter is coming up on 29/09/2007. Apparently, the basic apprehension is that in the light of Ext.P4 award an administrator will be appointed in the absence of any order staying the award. In such circumstances, the writ petition is disposed of as follows:

The interim order passed not to appoint the Administrator will continue till 29/09/2007. On 29/09/2007 the Tribunal will

take up Ext.P5 and pass orders thereon in accordance with law. I make it clear that it is open to the first respondent and also other parties to urge all contentions. The Tribunal will consider the matter totally untrammelled by the order passed by this court ordering that Administrator shall not be appointed and purely on the merits of the case made out by the petitioner.

(K.M.JOSEPH, JUDGE)

sv.